

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT GUICHARD,

Plaintiff,

v.

MANDALAY PICTURES, LLC, d/b/a
MANDALAY ENTERTAINMENT, METRO-
GOLDWYN-MAYER STUDIOS, INC., et al.,

Defendants.

No. C 04-4363 JSW

**ORDER DENYING PLAINTIFF'S
MOTION FOR A PRELIMINARY
INJUNCTION PENDING APPEAL**

Now before the Court is the *ex parte* motion by Plaintiff Robert Guichard for a preliminary injunction pending appeal of this Court's March 22, 2005 order denying Plaintiff's motions for a preliminary injunction. The present motion functions as a motion for reconsideration of the Court's earlier ruling, denying the preliminary injunction under both the Lanham Act and Business and Professions Code section 17200 *et seq.* on the grounds that Plaintiff had shown neither likelihood of success on the merits of his claims nor irreparable harm. Plaintiff is correct in his contention that the standard for a motion for injunction pending appeal is essentially identical to the standard governing the issuance of a preliminary injunction.

1 (See Motion at 2, citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Los Angeles Memorial*
2 *Coliseum Comm'n v. National Football League*, 634 F.2d 1197, 1200 (9th Cir. 1980).) The
3 criteria for a preliminary injunction pending appeal are: (1) a strong likelihood of success on the
4 merits; (2) the possibility of irreparable injury to the plaintiff if the preliminary relief is not
5 granted; (3) the balance of hardships tips in favor of the plaintiff; and (4) the advancement of
6 the public interest. *Id.*

7 On March 22, 2005, the Court determined that Plaintiff was not able to demonstrate
8 likelihood of success on the merits of his claims or that he will be irreparably harmed, and
9 therefore denied his motion for a preliminary injunction. Similarly, nothing in the current
10 motion before the Court indicates that Plaintiff has met the burden for a preliminary injunction.
11 Therefore, Plaintiff's motion for a preliminary injunction pending appeal is HEREBY DENIED.

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13 **IT IS SO ORDERED.**

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15 Dated: April 28, 2005

16 /s/ Jeffrey S. White
17 JEFFREY S. WHITE
18 UNITED STATES DISTRICT JUDGE
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